

SENATE BILL No. 476

DIGEST OF INTRODUCED BILL

Citations Affected: IC 34-13-3-3.

Synopsis: Limitations on governmental immunity for emergency communication systems. Specifies that a governmental entity is not immune for the intentional, reckless, or grossly negligent operation, maintenance, or use of an emergency communication system, including a 911 emergency telephone system.

Effective: July 1, 1999.

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January 13, 1999, read first time and referred to Committee on Corrections, Criminal and Civil Procedures.

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Introduced

First Regular Session 111th General Assembly (1999)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 1998 General Assembly.

SENATE BILL No. 476

A BILL FOR AN ACT to amend the Indiana Code concerning civil law and procedure.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 34-13-3-3 IS AMENDED TO READ AS
- 2 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 3. A governmental
- 3 entity or an employee acting within the scope of the employee's
- 4 employment is not liable if a loss results from:
- 5 (1) the natural condition of unimproved property;
- 6 (2) the condition of a reservoir, dam, canal, conduit, drain, or
- 7 similar structure when used by a person for a purpose that is not
- 8 foreseeable;
- 9 (3) the temporary condition of a public thoroughfare that results
- 10 from weather;
- 11 (4) the condition of an unpaved road, trail, or footpath, the
- 12 purpose of which is to provide access to a recreation or scenic
- 13 area;
- 14 (5) the initiation of a judicial or an administrative proceeding;
- 15 (6) the performance of a discretionary function; however, the
- 16 provision of medical or optical care as provided in IC 34-6-2-38
- 17 shall be considered as a ministerial act;

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- (7) the adoption and enforcement of or failure to adopt or enforce a law (including rules and regulations), unless the act of enforcement constitutes false arrest or false imprisonment;
- (8) an act or omission performed in good faith and without malice under the apparent authority of a statute which is invalid if the employee would not have been liable had the statute been valid;
- (9) the act or omission of anyone other than the governmental entity or the governmental entity's employee;
- (10) the issuance, denial, suspension, or revocation of, or failure or refusal to issue, deny, suspend, or revoke, any permit, license, certificate, approval, order, or similar authorization, where the authority is discretionary under the law;
- (11) failure to make an inspection, or making an inadequate or negligent inspection, of any property, other than the property of a governmental entity, to determine whether the property complied with or violates any law or contains a hazard to health or safety;
- (12) entry upon any property where the entry is expressly or impliedly authorized by law;
- (13) misrepresentation if unintentional;
- (14) theft by another person of money in the employee's official custody, unless the loss was sustained because of the employee's own negligent or wrongful act or omission;
- (15) injury to the property of a person under the jurisdiction and control of the department of correction if the person has not exhausted the administrative remedies and procedures provided by section 7 of this chapter;
- (16) injury to the person or property of a person under supervision of a governmental entity and who is:
- (A) on probation; or
 - (B) assigned to an alcohol and drug services program under IC 12-23, a minimum security release program under IC 11-10-8, or a community corrections program under IC 11-12;
- (17) design of a highway (as defined in IC 9-13-2-73) if the claimed loss occurs at least twenty (20) years after the public highway was designed or substantially redesigned; except that this subdivision shall not be construed to relieve a responsible governmental entity from the continuing duty to provide and maintain public highways in a reasonably safe condition;
- (18) development, adoption, ~~or implementation operation,~~ ~~maintenance, or use~~ of an enhanced emergency communication

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1 system, **unless the loss was sustained because of an intentional,**
2 **a reckless, or a grossly negligent act or omission related to the**
3 **operation, maintenance, or use of the enhanced emergency**
4 **communication system, including the operation, maintenance,**
5 **or use of a 911 emergency telephone system or an enhanced**
6 **911 emergency telephone system; or**

7 (19) injury to a student or a student's property by an employee of
8 a school corporation if the employee is acting reasonably under a
9 discipline policy adopted under IC 20-8.1-5.1-7(b).

10 SECTION 2. [EFFECTIVE JULY 1, 1999] IC 34-13-3-3, as
11 amended by this act, applies only to a cause of action that accrues
12 after June 30, 1999. The amendment of IC 34-13-3-3 by this act
13 shall not be construed in any manner to affect the interpretation of
14 IC 34-13-3-3 or IC 34-4-16.5-3 (repealed) as those statutes existed
15 before July 1, 1999.

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